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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN THE MATTER OF THE INVOLUNTARY )  
TERMINATION OF THE PARENT-CHILD )  
RELATIONSHIP OF J.T., MINOR CHILD, )  
AND HIS MOTHER, CARLETTA TROTTER, )  
AND HIS FATHER, JOSEPH BOWERS, )

CARLETTA TROTTER, )

Appellant-Respondent, )

vs. )

MARION COUNTY OFFICE OF )  
FAMILY AND CHILDREN, )

Appellee-Petitioner, )

and )

CHILD ADVOCATES, INC., )

Co-Appellee-Guardian ad Litem. )

No. 49A02-0603-JV-219

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Deborah Shook, Commissioner  
Cause No. 49D09-0407-JT-199

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January 10, 2007

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**VAIDIK, Judge**

**Case Summary**

Carletta Trotter appeals the juvenile court's decision terminating the parent-child relationship between herself and her biological son, J.T. Trotter argues that the evidence is insufficient to support the juvenile court's findings that various statutory requirements for termination were satisfied. Finding the evidence sufficient as to all of these findings, we affirm the decision of the juvenile court.

**Facts and Procedural History**

J.T. was born to Carletta Trotter on October 4, 2002. Trotter is the biological mother of eight children, including J.T., her youngest child. Trotter's rights to J.T., only, are the subject of the present termination action.<sup>1</sup>

Trotter has a long history with the child welfare systems of Indiana, Minnesota, and Iowa, and her parental rights to all seven of her other children were terminated at various times before the present action was brought regarding J.T.<sup>2</sup> Though the details of these other termination actions are of limited importance in the present case, it is worth noting that Trotter's other children were removed from her care for reasons ranging from

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<sup>1</sup> J.T.'s biological father, Joseph Bowers, consented to J.T.'s adoption in the underlying proceeding.

<sup>2</sup> Trotter consented to the adoption of her first child, Ja.T., shortly after giving birth to him in 1991 at the age of fifteen. We note that Ja.T. is referenced by the juvenile court, *infra*, as the child who Trotter later abducted from foster care. The other six children, like J.T., were removed from Trotter's care by child welfare agencies.

severe neglect to suspected physical abuse resulting in serious bodily injury to failure to provide basic medical care for special-needs children. Previous attempts at reunification with these children, including parent training services, visitation arrangements, and other reunification services, have repeatedly failed.

When J.T. was born, Trotter was participating in services aimed at her reunification with her twin sons, Da.T. and De.T. On October 6, 2002, just two days after J.T.'s birth, Trotter cut J.T.'s umbilical cord stump and his security device off with a pair of scissors and fled the hospital with him before the newborn was medically cleared for discharge. Alexa Bryan, a caseworker for the Marion County Department of Child Services ("DCS") who was assigned to the case involving Da.T. and De.T., spoke with Trotter and urged her to bring J.T. to a court hearing related to the twins' case, which was scheduled for October 9, 2002. Trotter failed to appear at the hearing, and a warrant was immediately issued for her arrest. A petition was also filed on that date seeking to have J.T. declared a Child in Need of Services ("CHINS"). Trotter ceased all contact with the DCS and the court, and her parental rights to Da.T. and De.T. were eventually terminated in a separate action. J.T., *in absentia*, was declared a CHINS by the juvenile court on February 13, 2003.

With the aid of a private investigator, Trotter was located on or about December 17, 2003. It was determined that Trotter had initially fled with J.T. to Florida, New Mexico, and other Indiana jurisdictions, but she had returned and left J.T. in her mother's care in the fall of 2003. Trotter and her mother were both arrested on outstanding

warrants, and J.T. was placed in pre-adoptive foster care with Bridgette Wilson, the same woman who adopted Da.T. and De.T.

J.T. has numerous behavioral and developmental issues. When first placed in his foster home, he would take food from the trash and would eat until he vomited. He would sit for hours at a time without moving, had difficulty engaging with other children, demonstrated self-mutilating behavior, and sometimes would go into rages where he would scream for hours at a time and hit anyone around him. He also would stay up all through the night and often wandered around the home. Once in foster care, J.T. began seeing a psychologist, and he became involved in developmental and occupational therapy that has begun addressing these issues. Since entering foster care, J.T. has never mentioned his mother, but he has bonded to his brothers, Da.T. and De.T.

Although Ms. Wilson initially hoped to adopt J.T., she came to question her ability to handle his needs and to protect her other children from physical harm when he becomes violent. During her struggle to decide whether to adopt, Wilson's long-time friend and foster-parent-aid, a woman identified in the record only as Eleanora, indicated to Wilson that she wants to adopt J.T. Eleanora assisted Wilson in the home with J.T. during his entire foster placement, and she is fully aware of his special needs. She and her husband have no other children in their home, and they obtained their therapeutic foster care license in order to have J.T. placed in their home pending adoption. That placement was achieved in January 2006, and the DCS's plan is for the adoption to proceed. With Eleanora and her husband, J.T. has been able to maintain his relationships with Wilson and with his brothers. The Guardian ad Litem ("GAL"), Greg Ellis, and

DCS case manager, Gosia Pawlak, believe that it is in J.T.'s best interests for Trotter's parental rights to be terminated and for the adoption to take place.

On May 28, 2004, a hearing was held and the juvenile court entered a finding pursuant to Indiana Code § 31-34-21-5.6 that the DCS was not required to make reasonable efforts to reunify Trotter with J.T. based on Trotter's parental rights having been terminated as to other children.<sup>3</sup> A petition for involuntary termination of the parent-child relationship between Trotter and J.T. was filed on July 2, 2004.

On November 9, 2005, and January 19, 2006, the juvenile court held fact-finding hearings on the termination action. Trotter, who was serving a jail term for unrelated convictions, testified that although she could not work with the DCS to improve her fitness as a parent while incarcerated, she has enrolled in classes through the jail to address certain issues. She testified that "I signed up for substance abuse classes because they think I got a substance abuse problem and I don't." Tr. p. 196. She also testified that she took a twelve-week parenting class, a carpentry class, and a class called "Healing for Damaged Emotions." *Id.* at 196-98. On February 24, 2006, the juvenile court entered numerous findings incorporating the above-stated facts, and including, in pertinent part, the following additional facts:

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<sup>3</sup> Indiana Code § 31-34-21-5.6 provides, in relevant part:

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family . . . are not required if the court finds any of the following:

\* \* \* \* \*

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

(A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services); . . . .

13. Carletta Trotter has been incarcerated since her arrest on December 16, 2003 and her earliest release date is in June of 2006.<sup>[4]</sup>

\* \* \* \* \*

23. Throughout her involvement with the various child protection agencies, Carletta Trotter has demonstrated a pattern of disregard of the law and the courts' orders as demonstrated by her unauthorized removal of [Ja.T.] from foster care and fleeing the State of Iowa, refusing to tell the Court in Allen County at a hearing where [Ja.T.] could be found and demonstrated a lack of concern for [J.T.'s] well-being by fleeing the hospital with her newborn son prior to his discharge.
24. Carletta Trotter has demonstrated a pattern of criminal conduct and instability. Carletta has failed to connect her poor choices, criminal behavior and instability as the basis for the removal of her children, including [J.T.]. Previous services offered to Carletta Trotter in Allen County, Indiana, Scott County, Iowa and Marion County, Indiana have not demonstrably enhanced Carletta Trotter's ability to parent.

Appellant's App. p. 11, 13. The juvenile court goes on to reach the following pertinent conclusions:

3. There is a reasonable probability that the conditions that resulted in [J.T.'s] removal from, and continued placement outside, the care and custody of Carletta Trotter will not be remedied.
4. There is a reasonable probability that the continuation of the parent-child relationship between [J.T.] and Carletta Trotter poses a threat to [J.T.'s] well-being.
5. Termination of the parent-child relationship between [J.T.] and his mother, Carletta Trotter, is in his best interests.
6. The plan of the [DCS] for the care and treatment of [J.T.], termination of parental rights and adoption, is acceptable and satisfactory.

*Id.* at 14-15. The trial court ordered the termination of the parent-child relationship between Trotter and J.T., and this appeal now ensues.

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<sup>4</sup> Although it is not directly stated in the record, the Indiana Department of Correction Offender Database indicates that Trotter was, in fact, released on June 30, 2006.

## Discussion and Decision

On appeal, Trotter contends that the juvenile court erred in terminating her parental rights. Indiana Code § 31-35-2-4(b)(2) states in pertinent part that in order to terminate parental rights, there must be a showing that:

- (B) there is a reasonable probability that:
  - (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied;
  - or
  - (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;
- (C) termination is in the best interests of the child; and
- (D) there is a satisfactory plan for the care and treatment of the child.

The DCS must prove these elements by clear and convincing evidence. Ind. Code § 31-37-14-2; *In re Termination of Parent-Child Relationship of L.S.*, 717 N.E.2d 204, 208-09 (Ind. Ct. App. 1999), *reh'g denied, trans. denied*. Trotter argues that the DCS failed to prove each of these elements.

We first note with regard to subsections (B)(i) and (ii) that the statute is written in the disjunctive and so requires a finding as to only one of the two factors listed. *See also In re L.S.*, 717 N.E.2d at 209. Because the juvenile court's decision must be upheld if its determination as to either of these two issues is correct, we choose below only to address the first prong of the statute—whether there is a reasonable probability that the conditions that resulted in J.T.'s removal from Trotter's care will not be remedied.

We will not set aside a juvenile court's judgment terminating a parent-child relationship unless we determine that it is clearly erroneous. *M.H.C. v. Hill*, 750 N.E.2d 872, 875 (Ind. Ct. App. 2001). Findings of fact are clearly erroneous when the record lacks any evidence or reasonable inferences to support them. *Id.* In determining whether

the evidence is sufficient to support the judgment terminating parental rights, this Court neither reweighs the evidence nor judges the credibility of witnesses. *Id.* With these considerations in mind, we proceed to address Trotter's argument.

**I. Probability That Conditions Resulting in Removal Will Not  
Be Remedied and the Best Interests of the Child**

Trotter cites a recent opinion of this Court, *Rowlett v. Vanderburgh County Office of Family and Children*, 841 N.E.2d 615 (Ind. Ct. App. 2006), *trans. denied*, for the basis of her argument that the juvenile court should be reversed on two of the findings before us today: (1) that there is a reasonable probability that the conditions resulting in J.T.'s removal will not be remedied and (2) that termination is in J.T.'s best interests. Because Trotter relies on *Rowlett* as support for each of these issues, we address them together.

In *Rowlett*, we considered the termination of a father's parental rights to his two young children. The children had been removed from the home and placed in the care of their maternal grandmother, who planned to adopt both of them following the termination proceeding. The father, Rowlett, was incarcerated on drug charges shortly after the children were removed from the home, three years earlier, but was due to be released shortly after the termination hearing.<sup>5</sup> The juvenile court terminated Rowlett's parental rights, and we reversed.

We held, first, that the juvenile court erred when it found that the OFC proved that there was a reasonable probability that the conditions resulting in the children's removal

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<sup>5</sup> One issue in the case concerned the juvenile court's denial of Rowlett's motion to continue the hearing until after he was released from prison. We reversed on this issue, as well, but we need not address that portion of the decision herein.



from Rowlett's care would not be remedied.<sup>6</sup> *Id.* at 622. We noted that in making such a determination:

[T]he trial court must assess the parent's ability to care for the children as of the date of the termination proceeding and take into account any evidence of changed conditions. However, the trial court should also take into account the parent's habitual patterns of conduct as a means of determining the probability of future detrimental behavior, as well as the services offered by the OFC to the parent and the parent's response to those services.

*Id.* at 620 (citing *In re K.S.*, 750 N.E.2d 832, 837 (Ind. Ct. App. 2001)) (internal citation omitted).

Following this review, we found that Rowlett, who had never previously received services designed to remedy his deficiencies as a parent, had demonstrated a genuine interest in pursuing that goal. *See id.* While incarcerated, Rowlett "participated in nearly 1,100 hours of individual and group services, including services in encounters, anger management and impulse control, parenting skills, domestic violence, self-esteem, self-help, and substance abuse." *Id.* He also received credit for several college courses, was enrolled in further courses, and he had been accepted to the University of Evansville's general studies program and had secured employment to begin following his release. Therefore, given such strong indications of changes made on Rowlett's part and his previous lack of services aimed at reunification with his children, we held that there was insufficient evidence to prove that the conditions resulting in removal would not be remedied. *Id.* We further held, based on Rowlett's efforts at improvement and the fact that Rowlett had maintained regular contact with his children while incarcerated and the

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<sup>6</sup> In *Rowlett*, it does not appear that the juvenile court determined that the continuation of the parent-child relationship posed a threat to the children's well-being, which would have alternatively supported the trial court's termination. *See* Part II, *infra*.

children loved him and awaited his return, that the evidence was insufficient to prove that termination was in the children's best interests. *Id.* at 623-24.

Trotter argues that her case is analogous to Rowlett's because while incarcerated, she also has received services aimed at improving her ability to parent and her job stability once released from jail. Therefore, she argues that the evidence is insufficient to prove that there is a reasonable possibility that the conditions resulting in J.T.'s removal will not be remedied. Moreover, she contends that her parenting skills have improved as a result of the services she has received. Because these improved skills have not been assessed as to J.T., she argues that it cannot be said that termination is in the child's best interests. Finding Trotter's case to be readily distinguishable from *Rowlett*, we disagree.

Rowlett was incarcerated a short time after his children were removed from his care, and before the Vanderburgh County OFC offered him any services to address his deficiencies as a parent. He never received the opportunity to become a fit parent, but he convincingly argued to the court that he wished to pursue that opportunity upon his impending release from prison. He came before the juvenile court having participated in 1100 hours of training aimed at self-improvement and the improvement of his ability to parent. The *Rowlett* Court was faced with a parent who had never before been offered services aimed at his reunification with a child, and this parent demonstrated a genuine recognition of his shortcomings and a proven motivation to make positive steps toward self-improvement.

Trotter stands in stark contrast to Rowlett. Where Rowlett had never before been given the opportunity to improve as a parent, Trotter has been given numerous

opportunities. She has failed to benefit from those opportunities time and again, and her eight biological children, including J.T., have suffered physical and emotional trauma as a result. She has shown a blatant disregard for the legal and child welfare systems, even abducting one of her children from foster care. She points to services she has received while incarcerated, but in contrast to Rowlett's 1100 hours of training, she cites to a small number of classes and an application for substance abuse programming, and even then she argues that she does not have a substance abuse problem. Taking into account Trotter's patterns of conduct as a means of determining the probability of future detrimental behavior and her response to services she has received in the past through the DCS, *Rowlett* cannot be said to support Trotter's insistence that the juvenile court erred when it found a reasonable probability that the conditions resulting in J.T.'s removal will not be remedied.

Moreover, Trotter cannot draw support from *Rowlett* for her contention that termination is not in J.T.'s best interests. While we commend Trotter for any genuine efforts she has made to improve herself and her parenting skills during her incarceration, her insistence that these efforts expunge her pattern of abusive, neglectful, and unlawful behavior is mistaken. While juvenile courts are to assess a parent's fitness at the time of the termination hearing, they also must be mindful of a parent's past and proven character. *See Rowlett*, 841 N.E.2d at 622. Further, Trotter has not had contact with J.T. since he was removed from her care, and the evidence indicates that he has never spoken about her. Given his tender age, he likely does not remember her. The evidence supports the juvenile court's findings as to J.T.'s best interests.

## II. Plan for Care and Treatment of the Child

Last, Trotter argues that the juvenile court's finding that the DCS has a suitable plan for J.T.'s care is clearly erroneous. Before terminating the parent-child relationship, the juvenile court must find that there is a satisfactory plan for the care and treatment of the child. *In re D.D.*, 804 N.E.2d 258, 268 (Ind. Ct. App. 2004), *trans. denied*. "This plan need not be detailed, so long as it offers a general sense of the direction in which the child will be going after the parent-child relationship is terminated." *Id.* Here, J.T. was residing in a foster home with Eleanora and her husband, having come to them after Eleanora expressed her desire to adopt him based on her experience as a foster-aide to his previous foster mother. Subsequently, Eleanora and her husband became certified foster parents for the express purpose of adopting this child. Trotter contends that this is not a satisfactory plan because J.T. had been with another foster family before coming to his current placement in January 2006, just as the termination proceedings were coming to a close and only six months before Trotter was to be released from jail. Trotter is incorrect in asserting, however, that this plan is not a satisfactory one. It offers a general sense of the direction in which J.T. will be going; indeed, it offers a very specific sense of direction—J.T. currently lives with a foster family in the process of adopting him. The juvenile court's finding that the DCS has a suitable plan for J.T.'s future care is not clearly erroneous.

For all of the above reasons, then, we affirm the juvenile court's termination of the parent-child relationship between Trotter and J.T.

Affirmed.

BAILEY, J., and BARNES, J., concur.